

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:**  
**FILE NUMBER:**

Omaha District, South Dakota Regulatory Office  
200430433

**REGULATORY PROJECT MANAGER:**

Andy Mitzel

**Date:** 11/17/2004

**PROJECT REVIEW/DETERMINATION COMPLETED:**

In the office N (Y/N)

**Date:** \_\_\_\_\_

At the project site Y (Y/N) **Date:** 11/17/2004

**PROJECT LOCATION INFORMATION:**

State:

South Dakota

County:

Minnehaha

Center coordinates of site by latitude & longitudinal coordinates:

Lat 43-36-48.6362 Long -96-57-16.6710

Approximate size of site/property (including uplands & in acres):

135 acres

Name of waterway or watershed:

Lower Big Sioux

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X/3								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									
_____									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X/3		
Is or would be used as habitat by other migratory birds that cross state lines?			X/3		
Is or would be used as habitat for endangered species?					X/3
Is used to irrigate crops sold in interstate commerce?				X/3	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:**

Preliminary ☒ Or Approved ☐.

**ADDITIONAL INFORMATION SUPPORTING NJD** (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): The wetlands are located in a field that is used for row crop production. The 3 isolated palustrine farmed wetlands (0.8 acre, .4 acres, and 0.9 acre) on the site are degraded due to adjoining land use. The wetlands are dominated by Phalaris spp., Typhus spp., and Rumex spp. During a site visit, I determined that the wetlands had no area of concentrated surface water flow, nor was there a continuous wetland that tied these wetlands into a surface tributary system. There is no known interstate commerce nexus for these wetlands. There is an ephemeral stream on the site that has a surface hydrological connection to waters of the US.